

To: Jill M. Pietrini(trademarksCC@sheppardmullin.com)
Subject: U.S. Trademark Application Serial No. 90468939 - HAPPIER HEALTH - 63KS-285164
Sent: April 13, 2023 05:30:50 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 90468939

Mark: HAPPIER HEALTH

Correspondence Address:

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Applicant: Happier Living, Inc.

Reference/Docket No. 63KS-285164

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NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

Request an extension. For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the “Issue date” to avoid abandonment of the application.

Issue date: April 13, 2023

On November 30, 2021, action on this application was suspended pending the disposition of U.S. Application Serial No. 90032559. The referenced pending application has abandoned and is no longer a potential bar to the registration of applicant's mark.

In applicant's most recent response, applicant moved a series of goods from its companion application

Ser. No. 90468963 - HAPPIER HEALTH, including the following " Books in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design". As discussed more fully below, this identification is indefinite and too broad in Class 9. However, the examining attorney missed this issue in reviewing the identification of goods prior to suspension. Accordingly, this constitutes a new issue and necessitates this new non-final refusal. The examining attorney apologizes for any inconvenience this may cause. *See* TMEP §§706, 711.02.

Please email the assigned trademark examining attorney to resolve the issues in this Office action. Although the USPTO does not accept emails as responses to Office actions, communication by phone or email is permissible to agree to proposed amendments to the application that will immediately place the application in condition for publication, registration, or suspension. *See* 37 C.F.R. §2.62(c); TMEP §707.

SUMMARY OF ISSUES that applicant must address:

- New Issue: Identification of Goods
- Classification of Goods &
- Multi-Class Application Requirements

IDENTIFICATION OF GOODS

Applicant must clarify the wording "Books in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design" in the identification of goods in International Class(es) 9 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not indicate the format of the books such as downloadable electronic books or printed books. Further, this wording could identify goods and/or services in more than one international class. For example, downloadable electronic books are in International Class 9 and printed books are in International Class 16.

Applicant may substitute the following wording, if accurate:

International Class 009: Audio-books contained on disc or in electronic format such as mpegs or other prerecorded audio formats in the fields of meditation, health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Cases for holding compact discs, DVDs, and other electronic media; Computer accessories, namely, computer peripherals; Downloadable and recorded computer software for data processing, billing, collections, referrals, records management, operations, scheduling, staff support, and recruitment in the field of medical practice management; Downloadable computer application software for mobile phones, namely, software for meditation instruction; Downloadable computer software for meditation instruction in the fields of health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Downloadable electronic publications in the nature of books, booklets, magazines, journals, brochures, pamphlets and newsletters, all in the field of medical practice management; Mouse pads; Skins or covers for cell phones, PDAs, laptops, portable media players, tablet computers, e-book readers; Timers to be used for meditation purposes; Downloadable electronic appointment books; Binders for CDs; **{Indicate Class 16 format, e.g., Downloadable, Recorded} electronic books** in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design; Downloadable printable pocket calendars; Downloadable digital calendars; Downloadable magazines in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design; Pre-recorded, non-downloadable video discs, video recording and video tapes featuring health, fitness, exercise, wellness, personal development, mental therapy, and medicine

International Class 016: **Printed** books in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

CLASSIFICATION OF GOODS

If applicant adopts the suggested amendment of the identification of goods, then applicant must amend the classification to International Class(es) 9 and 16. *See* 37 C.F.R. §§2.32(a)(7), 2.85; TMEP §§805, 1401.

MULTIPLE-CLASS APPLICATION REQUIREMENTS

The application identifies goods in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

- (1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.
- (2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO's current fee schedule](#)). The application identifies goods and/or services that are classified in at least two classes; however, applicant submitted a fee(s) sufficient for only one class(es). Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(b) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the [Multiple-class Application webpage](#).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). *See* TMEP §1402.04.

How to respond. File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

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RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on April 13, 2023 for
U.S. Trademark Application Serial No. 90468939

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.